

Message

From: Orme-Zavaleta, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3C5A111DC377411595E5B24B5D96146B-ORME-ZAVALITA, JENNIFER]
Sent: 1/20/2021 2:57:41 PM
To: Thayer, Kris [thayer.kris@epa.gov]
Subject: RE: on the OIRA memo

Ok, yes saw this

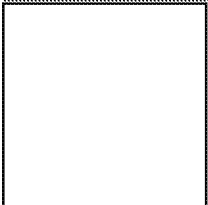
No signature is important....

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From: Thayer, Kris <thayer.kris@epa.gov>
Sent: Wednesday, January 20, 2021 9:54 AM
To: Orme-Zavaleta, Jennifer <Orme-Zavaleta.Jennifer@epa.gov>
Subject: RE: on the OIRA memo

Environment & Energy Report



Source: Getty Images

White House Memo on Chemical Decisions Sparks Concern, Confusion

Jan. 19, 2021, 1:39 PM

Listen

- OMB memo spurs anxiety, whether final policy or not
- Polluters said to gain power in chemical toxicity decisions

Polluters could have more power over the science that helps determine federal and state cleanup standards if a recent White House memo from the Trump administration is or becomes final, several attorneys and former agency scientists say.

The memo, reviewed by Bloomberg Law, requires the Environmental Protection Agency to submit more "health-based values"—or numerical ways of describing a chemical's toxicity—to the White House's Office of Information of Information and Regulatory Affairs, known as OIRA.

And for the first time, OIRA, rather than the EPA, would have the final word on what those values would be. Health-based values are used by the EPA, states and companies to create hazardous waste cleanup plans and set other goals, standards, and regulations.

The Jan. 8 memo from OIRA's outgoing administrator, Paul J. Ray, "looks like it's intended to hamstring the incoming EPA," said Steve Owens, an attorney with Squire Patton Boggs who oversaw the EPA's chemical and pesticide offices from 2009 to 2011 under the Obama administration.

But Edie M. Heipel, spokeswoman for the Office of Management and Budget, which oversees OIRA, said the changes described in the memo would ensure that "significant" EPA chemical assessments are reviewed by career scientists and experts across multiple agencies.

There's "nothing controversial about ensuring good science unless you are worried that your work won't stand up to scrutiny from other scientists across the government," she said.

Memo's Status Unclear

Heipel didn't answer three separate queries about whether the memo is final. The copy of the memo lacks Ray's signature on its front page; final memos typically have a front-page signature. The EPA referred all questions to OMB.

Whether it's final, draft—or an idea—OIRA's memo is concerning, said James Goodwin, an attorney and senior policy analyst at the Center for Progressive Reform, which focuses on safety, health, and environmental policies.

The memo lays out a review process that gives federal agencies, like the Department of Defense, more power over final conclusions about a chemical's toxicity, said Elizabeth "Betsy" Southerland, who retired from EPA in 2018 after a 30-year career, most recently directing the Office of Water's science and technology office.

Yet the defense department and its contractors typically push for less-protective cleanup standards to limit the billions of dollars they spend cleaning up waste they generate, she said. The department didn't reply to requests for comment.

It's fine for Defense and other agencies tasked to clean up waste to comment on proposed remediation standards that incorporate the EPA's values, Southerland said. But deciding the toxicity of a chemical is supposed to be a health-based, scientific decision, she said.

Southerland flagged another problem. The memo directs the EPA to send other types of analyses—including provisional peer-reviewed toxicity values designed for Superfund sites—to OIRA. These Superfund values are designed to be developed and acted upon quickly, and the interagency process the memo establishes will slow that down, she said.

OIRA's career staff, which tend to oppose strong regulations whether working for Democrats or Republicans, could recommend the memo be final—if it isn't already, Goodwin said.

Biden's incoming appointees may "not appreciate the harmful consequences this document poses and might absentmindedly sign off on it," Goodwin said. Or incoming appointees could "be willing to accept the tradeoff of empowering polluters in federal agency scientific determinations" in an effort to concentrate power over the executive branch, he said.

'Overruled Scientists'

Despite uncertainty over the memo's finality, the process it lays out was already used in an EPA analysis of perfluorobutane sulfonic acid, or PFBS, according to a current and a former EPA scientist familiar with that assessment. Both asked not to be identified because they're not authorized to discuss internal deliberations.

PFBS is a replacement for perfluorooctane sulfonate, or PFOS, according to the EPA's draft analysis. PFOS is called a "forever chemical," because neither sun, weather, or microbes break it down. Since the 3M Co. voluntarily stopped making PFOS in the early 2000s, studies have found that it can increase the risk of cancer and weaken the immune system, among other health problems.

OIRA used a spectrum of toxicity values when looking at PFBS—some being less protective than those the EPA proposed, the former agency scientist said. That would allow regulators to use less protective numbers as the starting point for their cleanup or other standards, the scientist said.

Sen. Maggie Hassan (D-N.H.) blasted the decision to use OIRA's process on PFBS, saying "the Trump administration overruled scientists and weakened safety standards." Hassan also called the decision "an affront to every family who has raised their voice to speak out about the health impacts of PFAS chemicals."

Robert Kavlock, an independent scientific consultant who directed EPA Office of Research and Development before retiring in 2017, said he hopes Biden's staff will shred the Jan. 8 policy, whether final or not.

Biden's team faces a huge challenge to accomplish its environmental justice, science-based decisions, and other goals, while identifying the many procedural hurdles the Trump administration has installed, he said.

"They can't undo four years of damage instantly. They'll have to pick their priorities," Kavlock said.

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From: Orme-Zavaleta, Jennifer <Orme-Zavaleta.Jennifer@epa.gov>

Sent: Wednesday, January 20, 2021 8:13 AM

To: Thayer, Kris <thayer.kris@epa.gov>

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Not able to pull this up

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From: Thayer, Kris <thayer.kris@epa.gov>
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<https://aboutbenv.com/U8Y>

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